IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 14513 of 2004

Between:

Smt.P.Nagaratnamma W/o.Narayanappa Permanent F.P. Shop Dealer
Varadayapalli Village, Peddapappur Mandal, Anantapur Distric

..... PETITIONER

AND

1 The Joint Collector Anantapur, Anantapur District.
2 The Revenue Divisional Officer Anantapur, Anantapur District.
3 The Mandal Revenue Officer Peddapappur Mandal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari against the under of the 1st respondent dated 11-8-2004 in proceeding L.Dis No.K4/ATP/904/2004 as being arbitrary, illegal and vitiated by non-application of the mind and a further declaration against the order of the 2nd respondent suspending the authorization of the petition dated 2-8-2004 in proceeding RC.No.D1/CS/843/2004 as being arbitrary illegal, unconstitutional and violative of the Principles of natural justice.

Counsel for the Petitioner: M/SC.KODANDA RAM

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The petitioner is an authorised dealer in respect of Fair Price Shop of Varadayapalli village, Peddapappur Mandal, Anantapur District. His authorisation was suspended, pending enquiry by the Revenue Divisional Officer by orders dated 02.08.2004 alleging certain irregularities in the distribution of essential commodities. Against the said order, he preferred an appeal before the Joint Collector on 07.08.2004. The Joint Collector passed the impugned order on 11.08.2004, which runs as under:

> "In the reference 1st cited above, Orders were issued by the Revenue Divisional Officer, Anantapur suspending the authorisation held by Smt.R.Nagarathnamma, F.P.Shop dealer, Varadayapalli village, Peddapappur Mandal pending further enquiry for commission of certain irregularities noticed in distribution of Essential Commodities to the cardholders.
>
> Aggrieved by the Orders of Revenue Divisional Officer, Anantapur, the F.P.Shop dealer has filed an appeal before the Joint Collector, Anantapur, praying for grant of stay in the reference 2nd read above.
>
> Upon perusing the grounds of appeal and also the orders of lower Court of Revenue Divisional Officer, Anantapur, the appeal is hereby dismissed at admission stage."

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The learned counsel for the petitioner contends that all the allegations made against the petitioner in the order of suspension are false and baseless and at any rate they are trivial in nature, and therefore, the order of suspension is not at all warranted. Further, the contention of the petitioner is that the first respondent, who is

competent authority for deciding the statutory appeal, erred in dismissing the appeal without affording any opportunity and without considering any one of the grounds raised in the appeal.

On a perusal of the impugned order, it is clear that the first respondent has passed the order without referring to any one of the contentions raised by the petitioner. It is also clear that no opportunity was afforded to the petitioner before passing that order. The first respondent while considering the Statutory Appeal is expected to dispose of the same in accordance with law after affording due opportunity to the petitioner. Since such a procedure has not been followed, the impugned order which was not only cryptic and not supported by any reasons but also in violation of the principles of natural justice cannot be sustained. Accordingly, the said order is set aside and the first respondent is directed to consider the appeal afresh and pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. Having regard to the facts and circumstances of the case, I am also of the view that the balance of convenience is in favour of the petitioner and it would be appropriate to permit the petitioner to distribute the essential commodities till the disposal of the appeal. Accordingly, the writ petition is disposed of with a further direction to the respondents that the order of suspension, dated 02.08.2004 shall not be given effect to till the disposal of the appeal by the first respondent. No costs.

_____

17.08.2004

Note: Furnish CC in two days

(b/o)

VGB

To

1 The Joint Collector Anantapur, Anantapur District.
2 The Revenue Divisional Officer Anantapur, Anantapur District.
3 The Mandal Revenue Officer Peddapappur Mandal, Anantapur District.

4 2CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT)

5 2CD copies